

Applicants respectfully note that the Office Action has failed to establish a *prima facia* case of obviousness. As the PTO recognizes in MPEP § 2142:

The legal concept of *prima facia* obviousness is a procedural tool of the examination which applies broadly to all arts. It allocates who has the burden of going forward with the production of evidence in each step of the examination process . . . The Examiner bears the initial burden of factually supporting any *prima facia* conclusion of obviousness. If the Examiner does not produce a *prima facia* case, the applicant is under no obligation to submit evidence of non-obviousness.

Applicants further note that there must be a basis in the art for combining or modifying the references. Specifically, MPEP § 2143.01 provides that the mere fact that references "can be combined or modified does not render the resulted combination obvious *unless* the prior art also suggests the desirability of the combination." *In re Mills*, 916 F2d 680, 16 U.S.P.Q. 2d 1430 (Fed. Cir. 1990) (emphasis added). Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention "absent some teaching, suggestion or incentive supporting the combination." *ACS Hospital Systems, Inc. v. Monteffore Hospital*, 732 F2d 1572, 1577, 21 U.S.P.Q. 929, 933 (Fed. Cir. 1984). Thus, there must be some teaching, suggestion, or incentive in the prior art for combining or modifying the references. Applicants respectfully submit that there is no such teaching, suggestion or incentive within the cited references.

Fiorina et al. is generally directed to a static converter. As may be best seen by referring to FIGURE 2, the static converter includes a semi-conductor 42 fitted in plastic casings with electronically insulated base plates that are mounted on heat sinks 44. The heat sinks 44 are connected to printed circuit metallization acting as a reference plane.

Applicants respectfully note that there is no teaching or suggestion within Fiorina et al. of either the need or desirability of a heat insulating cover operable to mate with a base so as to form a sealed space between the cover and the base to prevent ingress of moisture, as set forth in

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Claim 1 as originally filed. Moreover, Fiorina et al. fail to teach or suggest a heat insulating cover, let alone such a cover forms a sealed space to prevent ingress of moisture. As a result, applicants respectfully submit that there is no suggestion, motivation or incentive within Fiorina et al. to combine its disclosure with that of Pell et al. Pell et al. fail to address the foregoing shortcomings of Fiorina et al. and, therefore, cannot overcome the deficiencies of Fiorina et al.

Pell et al. is generally directed to electronics enclosure for power electronics with passive thermo management. The enclosure 10 is designed to accommodate an electronics unit, including a high powered RF amplifier and associated electronics within a housing 20. Associated with the housing 20 are thermo control modules 22-26 to provide "thermo management of the enclosure to maintain an appropriate operating temperature of the electronic unit in an uncontrolled environment, such as encountered by an enclosure mounted outdoors, for example, on an exposed antenna mast head." Column 5, lines 44-49. The housing 20 includes a "moisture permeable membrane, e.g., a Goretex patch 21 shown on the side of unit 20 of FIGURE 2" for controlling moisture exchange with the environment. Column 8, lines 61-64.

Applicants respectfully note that there is absolutely no teaching or suggestion within Pell et al. of a heat insulating cover in accordance with Claim 1 as originally filed.¹ Specifically, Pell et al. fail to suggest or disclose either the need or desire of a "heat insulating cover operable to mate with the base so as to form a sealed space bounding by the cover and the base to prevent ingress of moisture," as set forth in Claim 1.

Accordingly, because neither Fiorina et al. nor Pell et al. provides any suggestion or motivation for a hypothetical combination of their teachings, applicants respectfully submit that

¹ Applicants note that Pell et al. do describe an enclosure that "may include thermo insulation, sealing or other means to control moisture and condensation." Column 1, lines 38-40. Applicants respectfully note that such an ambiguous description of an enclosure does not teach or suggest, nor does it provide incentive, for a heat insulating cover as set forth in Claim 1.

the Office Action has failed to establish a *prima facia* case of obviousness. Thus, applicants respectfully submit that the rejection of Claims 1-28 under 35 U.S.C. § 103(a) as being an obvious combination of Fiorina et al. and Pell et al. is improper.

CONCLUSION

In view of the foregoing remarks regarding the Office Action, applicants respectfully request reconsideration and allowance of all claims. The Examiner is invited to telephone the undersigned if there any remaining issues regarding this matter.

Respectfully submitted,

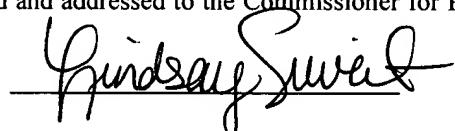
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